

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID ECHEVARRIA,

Plaintiff,

v.

ORDER  
12-CV-129

DR. WESLEY CANFIELD et al.,

Defendants.

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The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. §636(b)(1)(B). Defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 10) Plaintiff filed a “motion for an order granting complaint” and a motion for appointment of counsel. (Dkt. Nos 14 and 23) On January 13, 2014, Magistrate Judge Scott issued a Report and Recommendation recommending that defendants’ motion to dismiss be granted, and plaintiff’s “motion for an order granting the complaint” and motion for appointment of counsel be denied. (Dkt. No. 24)

Plaintiff filed objections to the Report and Recommendation on February 26, 2014. (Dkt. No. 27) Defendants filed a response on March 3, 2014 (Dkt. No. 28), and the Court deemed the matter submitted without oral argument.

Pursuant to 28 U.S.C. §636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after reviewing the

submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion to dismiss is granted, and plaintiff's cross-motion and motion to appoint counsel are denied.

The Clerk of the Court is instructed to close the case.

SO ORDERED.

*Richard J. Arcara*  
HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

Dated: March 12, 2014